

Centennial Village, Inc. d/b/a Tacoma Terrace Convalescent Center and Service Employees International Union, Local No. 38, AFL-CIO, Petitioner. Case 19-RC-10582

31 May 1984

DECISION AND ORDER DIRECTING HEARING

**BY CHAIRMAN DOTSON AND MEMBERS
HUNTER AND DENNIS**

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, a three-member panel has considered objections to conduct affecting the results of the election held among Voting Group B on 7 April 1983 and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of the ballot was: 48 for, and 28 against, the Petitioner, with 1 challenged ballot.

The Board has reviewed the record in light of the exceptions and brief and adopts the Regional Director's findings and recommendations only to the extent consistent with this Decision and Order Directing Hearing.

Contrary to the Regional Director we find that the Employer's Objection 1 raises substantial and material issues best resolved at a hearing. The objection alleges that the Petitioner by and through its agents and supporters harassed and intimidated employees in order to gain their support for the Union. In support of its objection the Employer submitted 13 affidavits which alleged that 4 antiunion unit employees and 2 nonunit employees received anonymous phone calls, some in the middle of the night, urging them to vote for the Petitioner; that 3 antiunion unit employees and 2 nonunit employees had the tires of their cars punctured by nails within 3 weeks of the election; and that 1 antiunion employee had the tires of her car slashed. In addition we note by way of background that the affidavits also alleged that before the previous election there were similar instances of misconduct including a threat to a nonunit employee that she "could be hurt" if she crossed a picket line in the event of a strike. The Regional Director recommended that this objection be overruled because there was no evidence linking the Petitioner with the foregoing conduct. The Regional Director,

however, did not consider whether as third-party conduct the evidence submitted by the Employer might warrant setting aside the election.

Even assuming that, as found by the Regional Director, this conduct cannot be attributed to the Petitioner, in our view the several acts of violence and the phone calls might have created an atmosphere of confusion and fear of reprisal rendering a free expression of choice impossible. The Employer's affidavits established that a number of employees were directly affected by the misconduct; we do not know the number of employees made aware of this conduct. In our opinion the evidence adduced by the Employer's affidavits raises substantial and material issues warranting a hearing on whether the alleged conduct occurred, the context in which it occurred, and its possible impact on the election.¹ Accordingly, we shall remand this case to the Regional Director in order to hold a hearing on Employer's Objection 1.

ORDER

It is ordered that a hearing be held before a designated hearing officer for the purpose of receiving evidence to resolve the issues raised by Employer's Objection 1.

IT IS FURTHER ORDERED that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served on the parties a report containing the resolution of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said objection. Within the time prescribed by the Board's Rules and Regulations, any party may file with the Board in Washington, D.C., eight copies of exceptions thereto. Immediately upon the filing of the exceptions, the party filing them shall serve a copy thereof on each of the other parties and shall file a copy with the Regional Director. If no exceptions are filed thereto the Board will adopt the recommendations of the hearing officer.

IT IS FURTHER ORDERED that the above-entitled matter be and it hereby is remanded to the Regional Director for Region 19 for the purpose of arranging such hearing and that the Regional Director be and he hereby is authorized to issue notice thereof.

¹ Also a hearing might reveal in greater detail than did the investigation the relationship, if any, between the Petitioner and the individuals who allegedly engaged in the conduct here.